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WESTFIELD CITY CLERK

## Personnel Action Committee

**Minutes for meeting date 10/08/20** at 5:00pm via Zoom as allowed by the Governor due to Pandemic  
Council Members – all present by individual roll call

Councilor Figy, Councilor Onyski, Chair/Councilor Harris

### Agenda Item #1

Submitting the reappointment of Attorney John E. Garber, 18 Perkins Avenue, Northampton, MA to the position of part-time Assistant City Solicitor for a term of three years from appointment date. (Attorney Garber is present via Zoom)

Attorney Garber was first appointed by Mayor Knapik in 2014 and confirmed by the City Council when he replaced Atty. William O'Grady who was appointed a District Court Judge. Atty. Garber was reappointed in 2017 when all City Councilors voted yes. On September 17, 2020 the entire City Council voted on his reappointment – at that time included Councilors Ralph Figy, Dave Flaherty, Cindy Harris, Mary O'Connell – who also informed the Council that Atty Garber dealt with School Employment issues, William Onyski, Robert Paul, Andrew Surprise, Matthew VanHeynigen, Dan Allie, Mary Ann Babinski, Brent Bean, John Beltrandi and Steve Dondley.

In the legal field he is known as an Expert Litigator. He oversees all litigation in Superior Court for the City of Westfield and guides and reviews our Law Department in litigation cases. He consults with the City's Dept. Heads and School Personnel, most on employment issues, injury and land use matters.

At his last reappointment – Solicitor Phillips (our thoughts go to her family) gave him her highest recommendation and stated that his role has reduced considerable the need to hire outside legal help. Mayor Sullivan also recommended Atty. Garber.

To review his professional background:

*November 2002-Present* – He is the co-founder of Weinberg and Garber, P.C, Northampton, MA. As a litigation attorney his firm concentrates on high-stakes cases, including being part of a multi-firm team that in 2016 obtained a \$32 million dollar jury verdict in a wrongful death case in Hampden County Superior Court. He handles all aspects of litigation in the State and Federal Courts, in Administrative Agencies and in Arbitration Mediation.

In addition, Sept 2014 to Present he has been the Asst. City Solicitor for the City of Westfield as a Senior Litigator Attorney representing the City's interests in various types of Municipal Litigation.

*From 1996-2002* – He was a Litigation Associate at Robinson Donovan P.C, Springfield MA. At this well-known and distinguished Law Firm he practiced Insurance Defense and Coverage, Commercial and Construction disputes and more than 20 appeals to State and Federal Courts, an impressive statistic.

*From 1992-1996* – He was Litigation Associate at Schoenberg, Fisher and Newman where he supervised cases in State and Federal Courts.

Lastly, Atty. Garber was President of the Hampshire Bar Association, he is CPCS Certified for Court- Appointed cases and is a Mock Trial Judge and Coach for high schools and colleges. Atty. Garber is an experienced Litigation Expert with an impeccable reputation in the Court System.

Councilor Figy – please make your comments, if any, and then Councilor Onyski for comments, if any, then please make a motion of for this item as you see best for our City so we can vote on this.

Councilor Figy said "My highest compliments to Atty. Garber and his work." He had questions but due to technical difficulty with Zoom, Att. Garber was not able to be heard at this time. Moved onto

Councilor Onyski who stated Atty. Garber has done a good job and it's great that we have a Litigator in the Law Department.

Atty. Shanna Reed (via Zoom) said having him in the department is wonderful, he's a great resource, and we don't have to outsource cases.

Technical difficulties rectified and Councilor Figy asked 5 questions sent to him by Councilor Mello. Summarizing -

1. Q: Your decision making process, take direction from whom, consequence of case loss?

A: Every Case is different. My mandate is to protect the best interest of the City. Takes direction from the City Solicitor, now the Acting City Solicitor with the Solicitor's recent passing. Inevitable some decisions on a motion, trial or something else may be a loss.

2. Q: Spanning several administrations is execution of decisions altered?

A: Doesn't change at all. He stated he makes most decisions and is very rare he would consult with the Mayor.

3. Q: Did you disagree with chosen course of action?

A: In general, all lawyers have opinions – when a difference, there is discussion – But first of all, would never take a course detrimental to the City. Priority always best interest of City.

4. Q: Who is your highest authority, and ultimate priority?

A: Reports to City Solicitor, who takes direction from Mayor. Priority is always best interest of the City – straightforward, zealously advocate for the City.

5. Q: Cross St. Situation

A: That case is pending, still active, thus can't comment.

Motion for approval of Atty. Garber's reappointment made by Councilor Figy, 2<sup>nd</sup> by Councilor Onyski.  
Individual Vote – Chair/Councilor Harris – Yes

Councilor Figy – Yes

Councilor Onyski – Yes

The vote is 3-0 to recommend approval of this item.

## **Agenda Item #2**

Submitting the job description of Personnel Director.

For the October 1, 2020 City Council Meeting, the Mayor and First Assistant City Solicitor, Shanna Reed (she had sent correspondence to all Councilors 2 days before the meeting explaining the situation) requested Immediate Consideration. At that meeting I stated that the Acting Personnel Director and Law Department and Mayor had approved the job description but the City Council must vote positively before the City can continue with the hiring process for a permanent Personnel Director, and that the City had many applicants, so quickly moving ahead with approval by Council would ensure that we don't lose these applicants. As a Human Resource Expert with National and International background with expertise in job analysis, job description, job salaries for all levels – entry to Scientist and Vice Presidents, am an Organizational Expert with Employment Law expertise and knowing all Councilors had the information on the job description for 2 days before the Council Meeting, and

everyday Councilors can communicate with Acting Personnel Director and Law Department, I made a motion to accept the job description.

On October 2, 2020 all Councilors received additional information from Atty. Reed on this description describing the situation in more depth and reminding them that they can always talk to the Acting Personnel Director. The Acting Personnel Director and the Assistant Solicitor/Labor Specialist, as well as the Mayor as the Appointing Authority, prior to the job posting, deemed the description to be sufficient and in-line with the educational and experience required of other Human Resource Directors in neighboring municipalities.

Again, I had a lengthy discussion with the Acting Personnel Director regarding this, who got results of a multitude of applicants with his posting of this job and our City is fortunate to have several excellent possibilities, according to him. Our Citizens deserve to have a City that runs efficiently and that necessarily requires a Personnel Director to hire competent, and indeed the best employees to work for our citizens, and to deal with all Human Resource issues.

As of this morning, no Councilor outside of P.A.C members had questions for the Acting Personnel Director.

Councilor Figy, please make your comments, if any, then turn it over to Councilor Onyski for any comments, then please make a motion for this item as you see what is best for our City, so we can vote on this item.

-Councilor Figy said reviewing this job description, I'd make no changes and he reached out to the other Councilors and received no feedback. He said we should move forward with a positive recommendation.  
-Councilor Onyski said I wouldn't change the job description. We might even get someone who exceeds this description. I accept this job description.

Motion for approval made by Councilor Onyski, 2<sup>nd</sup> by Councilor Figy.

Individual Vote – Chair/Councilor Harris – Yes

Councilor Figy – Yes

Councilor Onyski – Yes

Motion passes 3-0 for approval recommendation from the Personnel Action Committee.

May I have a motion to adjourn -

Motion to Adjourn by Councilor Figy, 2<sup>nd</sup> by Councilor Onyski

Individual Vote – Chair/Councilor Harris – Yes

Councilor Figy – Yes

Councilor Onyski – Yes

Thank you Councilors

Meeting adjourned 5:23pm

Minutes submitted by Chair/Councilor Harris 10/9/2020

Attachments included